



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274

Bonneville Power Administration
Fish and Wildlife Division
Attn: Marcella Renner
905 NE 11th Ave.- KEW-4
Portland, OR 97232
503-230-7334

August 29, 2007

RECEIVED BY BPA FOIA OFFICE THIS DATE: 9.5.07
DUE DATE: 10.03.07
LOG # 07.042

Re: Freedom of Information Act (NOAA Request #2007-00287)

Dear Ms. Renner:

Enclosed you will find a copy of a request for documents under the Freedom of Information Act (FOIA), 5 USC 552, made by MS. Stephanie M. Parent of Pacific Environmental Advocacy Center, addressed to the National Marine Fisheries Service (NOAA Fisheries). The requester asks for records pertaining to the Willamette River Basin Floor Control Project.

We found 2 responsive documents that are the exclusive or a primary concern of the Bonneville Power Administration. Per our governing regulations, 15 C.F.R. part 4, we hereby refer the requester to you for further action related to these documents (enclosed).

Thank you for your attention to this matter. Please do not hesitate to call me at (503) 230-5421, should you have questions.

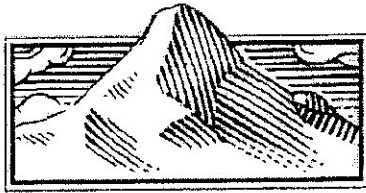
Sincerely,

Sheryl Robinson

Sheryl Robinson
FOIA Coordinator
NMFS NWR

Enclosure





The Environmental Legal Clinic
of Lewis & Clark Law School

Pacific
Environmental
Advocacy
Center

10015 S.W. Terwilliger Boulevard
Portland, Oregon 97219
phone: 503-768-6736
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parent@lclark.edu
www.peaclaw.org

June 1, 2007

FREEDOM OF INFORMATION ACT REQUEST

VIA U.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED

FOIA Officer or Coordinator
NOAA's National Marine Fisheries Service
Northwest Regional Office
7600 Sand Point Way NE
Seattle, WA 98115-0070

FOIA Officer or Coordinator
NOAA's National Marine Fisheries Service
Northwest Regional Office, Portland
525 NE Oregon Street, Suite 500
Portland, OR 97232

RE: Documents related to the Endangered Species Act Section 7 Consultation on the Effects
of the Willamette River Basin Flood Control Project

Dear FOIA Officer or Coordinator:

This is a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended. I make this request on behalf of the Northwest Environmental Defense Center ("NEDC").

NEDC was founded in 1969 and is dedicated to the preservation and protection of the natural resources of the Pacific Northwest. NEDC's members are lawyers, scientists, students and citizens interested in protecting the environment of the Pacific Northwest.

In April, 2000, the U.S. Army Corps of Engineers ("the Corps"), along with the Bureau of Reclamation ("BOR") as a cooperating agency, submitted to the National Marine Fisheries Service ("NMFS") and the U.S. Fish and Wildlife Service ("FWS") a Final Biological Assessment of the Effects of the Willamette River Basin Flood Control Project on Listed Species Under the Endangered Species Act ("2000 BA"), thereby initiating consultation pursuant to Section (7)(a)(2) of the Endangered Species Act ("ESA"). 16 U.S.C. § 1536(a)(2). It is NEDC's understanding that the Corps intends to submit a supplemental BA based on a revised proposed action for the effects of the Willamette River Project shortly. NEDC seeks further information related to this consultation, or related to any other consultation process concerning the effects of

the Willamette River Basin Project.

Pursuant to FOIA, please provide copies of the following documents to my attention at the address above, on behalf of NEDC:

1. Any and all documents related to the duration and extension of the consultation on the effects of the Willamette River Basin Flood Control Project, including but not limited to mutual agreements to extend the consultation for a specific time period pursuant to 50 C.F.R. § 402.14(e), ranging in time from April, 2000 up to and including the date NMFS begins searching for the documents requested herein.
2. Any and all documents related to requests for additional data to better formulate a biological opinion on the effects of the Willamette River Basin Flood Control Project made pursuant to 50 C.F.R. § 402.14(f), ranging in time from April, 2000 up to and including the date NMFS begins searching for the documents requested herein.
3. Any and all documents related to irreversible or irretrievable commitments of resources pursuant to Section 7(d) of the ESA, including but not limited to the operations of the Willamette River Basin Flood Control Project for any purpose or related to the BOR contracts for stored water within the Willamette River Project, ranging in time from April, 2000 up to and including the date NMFS begins searching for the documents requested herein.

This request applies to all such records in whatever form, including but not limited to correspondence, memoranda, notes, "e-mail" messages, and electronic files whose release is not expressly prohibited by law. It also covers any non-identical duplicates of records that, by reason of notation, attachment, or other alteration or supplement, include any information not contained in the original records. Additionally, this request is not meant to be exclusive of other records which, though not specifically requested, would have a reasonable relationship to the subject matter of this request.

I emphasize that this request applies to all described documents whose disclosure is not expressly prohibited by law. If you should seek to prevent disclosure of any of the requested records, I request that you: (i) identify each such document with particularity (including title, subject, date, author, recipient, and parties copied); (ii) explain in full the basis on which non-disclosure is asserted; and (iii) provide me with any segregable portions of the records for which you do not claim a specific exemption. NEDC is willing to accept the requested records in electronic format in order to reduce the cost in providing these documents, so long as the electronic versions are the final versions and have not been subsequently altered.

NEDC also requests that you waive any applicable fees because disclosure is clearly in the public interest. The disclosure "is likely to contribute significantly to public understanding of the

operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii).

The disclosed documents will illuminate in a clear and direct way the operations and activities of NMFS as it acts to fulfill important Congressional mandates to protect imperiled species through ESA consultation. Specifically, the disclosed documents will significantly contribute to public understanding and oversight of NMFS actions related to the consultation on the Willamette River Project, which has been ongoing for over seven years. To the best of my knowledge, this information has not been disclosed before and is therefore "new" information to the public. As such, the disclosed information will enhance public understanding to a significant extent.

NEDC has interest and expertise in environmental issues related to water quality and quantity, river management, fisheries and the ESA. NEDC will use this expertise to analyze the disclosed documents and disseminate the findings in order to enhance the public's understanding. NEDC intends to disseminate information gleaned from the disclosed documents through diverse and effective channels, including: NEDC's website, which specifically highlights environmental issues in the Pacific Northwest; NEDC's quarterly newsletter, which is broadly distributed; press releases; letters and emails to NEDC supporters; and by any other appropriate means in any appropriate forum that may arise.

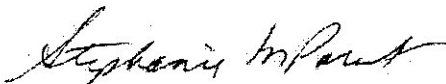
If for some reason the fee waiver is denied, NEDC reserves the right to appeal such decision and requests that a bill of costs be transmitted prior to incurring document duplication and transmission costs.

NEDC anticipates that NMFS will make the requested documents available within the statutorily prescribed period. Access to the records should be granted within twenty working days from your receipt of this request. Failure to respond in a timely manner shall be viewed as a denial of this request.

If you have any questions or if you require further information to rule on the fee waiver request, please, feel free to contact me at the phone number below. In addition, if you are not the proper recipient of this request, please, identify which office has information responsive to this request.

Thank you in advance for your prompt reply.

Sincerely,



Stephanie M. Parent
PEAC Managing Attorney
(503) 768-6736